

REMARKS

**1.     *Claim Rejections -- 35 U.S.C. § 103***

Claims 1-3, 5, 7-18, and 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Application Nos. 6,317,718 to Fano (hereinafter referred to as “the ‘718 reference” or “Fano”) and United States Patent No. 6,269,348 B1 to Pare Jr. et al. (hereinafter referred to as “the ‘348 reference” or “Pare”). Applicant appreciates the concerns raised by the Examiner, but respectfully submits that in light of the arguments presented below, neither Fano nor Pare, either individually or collectively, render the claims of the present invention obvious.

In response to the rejection, and particularly the rejection based on Fano, Applicant submits that there are substantial differences between Fano and the present invention, such that Fano does not render the claims of the present invention, as amended, obvious. Applicant would like to first point out the nature of the subject matter taught and described in Fano, followed by the nature of what is taught and claimed in the present invention. A detailed comparison will then be presented to emphasize the difference between the two inventions and the patentability of the present invention over Fano.

After careful and thorough analysis of Fano, Applicant submits that Fano teaches a system substantially different than that set forth in the present invention. Fano discusses many computer-related issues and functions in its initial disclosure and then turns finally to a preferred embodiment for implementing and using the system starting at column 47, which is actually quite a simple technology.

Essentially, Fano features and teaches a location-based filtering and shopping computer system within a mobile computing unit (e.g. PDA) that allows a user to exchange information with vendors based on the location of the user, wherein the user's location is determined by a GPS tracking system built into the mobile computing unit. While at first glance this may seem similar to the point-of-sale technology described in the present invention, the technologies are quite distinct. For example, in Fano, the mobile computing unit retrieves pre-determined or pre-existing generated data from those vendors within the proximity of the mobile computing unit's receiver. This data is in the form of online catalogs, or other stored informational content. See Fano, col. 47, ln. 29-33. As such, Fano teaches a wireless computing device's ability to selectively access and display data from a vendor, wherein the selection process is governed by the physical location of the wireless mobile computing unit so that the primary data being retrieved by the computing unit corresponds primarily to the one or more vendors in the user's immediate vicinity. See Fano, col. 47, ln. 19-24.

Moreover, the system in Fano does not require that the vendors whose information is being accessed carry or possess any special or even additional equipment for the system to function properly. Id. col. 47, ln. 24-25. This is because the vendors play a secondary or indirect role in the technology described in Fano. The system in Fano can only retrieve information from a vendor if that vendor hosts or utilizes some type of online information, such as a web site, wherein the information is previously generated (e.g. an online catalog). See Fano, col. 47, ln. 29-30. This is because the mobile computing unit simply functions as a normal computing device capable of accessing and retrieving information from an online source, such as the Internet. The

recognizable novel aspect of the device in Fano is its ability to retrieve information based on location as dictated and governed by the built-in GPS system.

This teaching is in stark contrast to the present invention in that the present invention requires each vendor to carry a point-of-sale wireless device for the specific purpose of communicating with a mobile computing unit carried by the user and for the specific purpose of conducting or completing a point-of-sale purchase. The present invention technology allows a user to conduct point-of-sale purchases and retrieval of goods from the actual physical store of the vendor.

Moreover, the present invention employs a short-range communication device that communicates and exchanges information with a wireless point-of-sale device existing in the vendor's store. Each of these limitations are recited in the claims of the present invention. Applicant respectfully submits that the technology taught in Fano is non-analogous to the technology in the present invention in that Fano does not teach nor suggest conducting point-of-sale purchases, and particularly point-of-sale purchases using a short range communication device to receive sales information from a wireless vendor device. Indeed, *the vendors in Fano do not possess nor utilize such a wireless point-of-sale device* in their physical locations as the system described in Fano does not require or even contemplate such a device. Subsequently, there is no short range communication taking place in Fano. The mobile computing unit in Fano simply retrieves data from normal online sources (e.g. the Internet) actually using long-range communication means (e.g. cellular, satellite, etc.) based on the physical location of the user as specified by the built-in GPS system, so that the information given to the user

corresponds to vendors in the user's immediate vicinity. As stated previously, there is no direct communication with a wireless vendor device.

Other embodiments in Fano employ a shopping function, see Fano, col. 47, ln. 35-col. 51, ln. 67, but the described shopping function simply retrieves vendor information from the vendor database of information, in most cases the vendor web site, and returns various items of interest to the user. In one embodiment, Fano teaches a goal specification function, see Fano, col. 47, ln. 40-47, that allows the user to create a list of items by selecting from a preexisting set of product categories. As the user comes within the vicinity of a vendor offering an item on the user's list, the mobile computing unit provides information to the user about the item, including pricing information. Or, the user may select a browse mode, wherein the system provides vendor information about various items existing or activities taking place in their stores. Id. Col. 47, ln. 47-67.

Once the information is obtained, the user may then purchase the goods *through the vendor's defined and selected online shopping method* of providing the purchase of such goods *through the vendor's created online system*. The system described in Fano simply teaches the access of these online databases much the same way anyone would from any computer, only the addition of and interface with a GPS system provides the user in possession of the mobile computing unit the ability to access and retrieve particular vendor information corresponding to vendors in the immediate vicinity of the user. Moreover, once the information is retrieved, the user may then purchase the goods through the *vendor's defined* channels of online trade. There is essentially no difference in the actual purchasing process by using the technology in Fano as opposed to sitting at home and buying the good over the internet from a home PC. Thus, Applicant submits

that Fano does not teach or suggest or even speak to the actual purchasing process as claimed in the present invention. Indeed, the vendors in Fano determine how their own goods are to be purchased when they set up their online store. The technology in Fano simply allows a user to have information provided to him on a mobile computing unit based upon his or her physical location.

On the other hand, the present invention features and teaches actual point-of-sale purchasing of various goods using a vendor point-of-sale device that is physically located in the vendor's actual store. The present invention mobile computing unit allows the user to communicate and exchange information with the point-of-sale vendor device using a short-range communications device supported in the mobile computing unit, wherein the short range communications device functions to receive purchase information from the vendor device and to transmit purchase authorization information to the vendor device, once received, to complete the sale transaction.

Another significant difference between Fano and the present invention is the function of the long-range communications device. Specifically, the long range communications device in Fano functions solely to access, via wireless technology, a global communications network, such as the Internet, that supports vendor information, such as in a vendor web site. Applicant submits that there is nothing unique or novel about the long range communications device in Fano and that many prior art wireless devices are capable of accessing the Internet using long range communications devices (e.g. cell phones with wireless Internet capabilities). On the other hand, the long range communications device taught in the present invention is actually not part of the mobile communications device carried by the user for conducting wireless point-of-sale

transactions. Instead, the long range communications device is part of the wireless point-of-sale vendor device existing within the vendor's store. The long range communications device functions specifically to retrieve authorization information about the user, such as credit approval, amount of funds in a banking account, etc., from an authorization source once the short range communications device has signaled a purchase request. The authorization information is retrieved from the authorization source and then transmitted or forwarded on to the vendor point-of-sale device for the purpose of authorizing and completing the sale or transaction through the vendor point-of-sale device. Once authorization is obtained, the sale is completed and the user is free to leave the store with the purchased goods. Nonetheless, Applicant submits that Fano does not teach nor suggest a long range communications device that functions to retrieve authorization information about the user or to transmit purchasing information to a vendor device as suggested by the Examiner.

In short, the goal of Fano was to provide a system to access vendor information based on the physical location of the user. In this sense, Fano is purely an information providing tool, with no teaching on point-of-sale purchases or purchasing methods. As such, Fano does not teach nor suggest the purchasing technology taught and claimed in the present invention, and particularly the point-of-sale purchasing technology. This point is even brought out in Fano where the inventor states, "the present invention shopping agent is not restricted to providing the shopper with information." See Fano, col. 52, ln. 2-3. A short description of a price negotiating function is then described. As can be seen, Fano is primarily an information gathering and providing tool with no teaching on true point-of-sale purchasing methods or systems.

Since Fano is relatively non analogous art and does not teach the elements or limitations of the claims of the present invention, Applicant submits that Fano cannot be combined with Pare to arrive at the claims of the present invention. Moreover, Pare requires registration with a third party identifier in order to conduct long range authorizations of the user. See Pare, col. 5, ln. 6-12.

Based on the foregoing, Applicant submits that the prior art does not render claims 1-3, 5, 7-18, and 21-24 of the present invention obvious. As such, Applicant respectfully requests that the claims of the application be reconsidered and that the rejection under § 103 be withdrawn.

CONCLUSION

Based on the foregoing, Applicant respectfully submits that the deficiencies in the application have been corrected and that the proposed claims, as amended, are neither anticipated nor rendered obvious by the prior art references cited by the Examiner. As such, Applicant believes that the claims are now in a condition for allowance, and action to that end is respectfully requested.

If any impediments to the allowance of this application for patent remain after the above amendments and remarks are entered, the Examiner is invited to initiate a telephone conference with the undersigned attorney of record.

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Respectfully submitted,

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